

The ADA Amendments Act of 2008 (HR 3195)

Background

The Americans with Disabilities Act of 1990 was intended to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” Just as other civil rights laws prohibit entities from basing decisions on characteristics like race or sex, Congress wanted the ADA to stop employers from making decisions based on disability.

Unfortunately, four U.S. Supreme Court decisions have narrowed the definition of disability so much that people with serious conditions such as epilepsy, muscular dystrophy, cancer, diabetes, and cerebral palsy have been determined to not meet the definition of disability under the ADA.

The result: In 2004, plaintiffs lost 97% of ADA employment discrimination claims that went to trial, often due to the interpretation of definition of disability. People who are excluded from a job or program because of a mistake belief they are not qualified have been denied protection from discrimination due to the Court’s decisions. This was not the intent of the ADA.

The legislation:

- Overturns the erroneous Supreme Court decisions that have eroded the protections for people with disabilities under the ADA.
- Makes it absolutely clear that the ADA provides broad coverage for anyone who faces disability discrimination, as Congress originally intended.
- Clarifies the definition of disability, including what it means to be “substantially limited in a major life activity.”
- Prohibits the consideration of mitigating measures – things that reduce the impact of the effects of an impairment – such as medication, prosthetics, and assistive technology, in determining whether an individual has a disability.
- Covers people who experience discrimination because someone believes that they are disabled, whether or not they actually are.
- Strikes a balance between employer and employee interests by clarifying accommodations need not be provided to an individual who is only “regarded as” having an impairment.
- Is supported by a broad coalition of civil rights groups, disability advocates, and employer trade organizations (see reverse.)

Support from key stakeholders for the ADA Amendments of 2008

Business:

Human Resource Policy Association
International Franchise Association
National Association of Manufacturers

National Restaurant Association
Society for Human Resource Management
U.S. Chamber of Commerce

Civil rights/disability:

American Association of People with Disabilities (AAPD)
AARP
AARP Foundation
ADA Watch/National Coalition for Disability Rights
American Council of the Blind
American Diabetes Association
American Foundation for the Blind
American Network of Community Options and Resources
American Psychological Association
APSE: The Network on Employment
Association of Assistive Technology Act Programs (ATAP)
Association of Programs for Rural Independent Living (APRIL)
Association of University Centers on Disabilities (AUCD)
Autism Society of America
Bazelon Center for Mental Health Law
Brain Injury Association of America
Care4Dystonia, Inc.
Children and Adults with Attention-Deficit/Hyperactivity Disorder
Council for Learning Disabilities
Council of State Administrators of Vocational Rehabilitation (CSAVR)
Division on Developmental Disabilities
Easter Seals
Epilepsy Foundation
Hearing Loss Association of America
Leadership Conference on Civil Rights
Learning Disabilities of the Council for Exceptional Children
Mental Health America!
National Alliance on Mental Illness (NAMI)
National Association of Community Health Charities

National Association of Councils on Developmental Disabilities
National Association of the Deaf
National Association of Governors' Committees on People with Disabilities (NAGC)
National Association of Law Students with Disabilities
National Association of State Head Injury Administrators
National Center for Environmental Health Strategies, Inc.
National Coalition of Mental Health Consumer Survivor Organizations
National Council for Community Behavioral Healthcare
National Council for Support of Disability Issues
National Council on Independent Living (NCIL)
National Disability Rights Network (NDRN)
National Down Syndrome Congress
National Down Syndrome Society
National Health Council
National Multiple Sclerosis Society
National Organization on Fetal Alcohol Syndrome (NOFAS)
National Rehabilitation Association
National Respite Coalition
National Spinal Cord Injury Association
National Vocational Evaluation and Career Assessment Professionals (VECAP)
National Youth Leadership Network
Paralyzed Veterans of America
Self Advocates Becoming Empowered
TASH
The Arc of the United States
United Cerebral Palsy
US Psychiatric Rehabilitation Association
United Spinal Association
United Synagogue of Conservative Judaism